

On February 2, 1932, no claimant having appeared for the property, judgment was entered ordering that the product be forfeited and destroyed. On February 6, the court entered an order directing that the destruction be delayed in order to ascertain whether the apples could be treated and made fit for human consumption and disposed of for charitable purposes without expense to the Government and, if so, that such treatment and disposition be made of the product.

ARTHUR M. HYDE, *Secretary of Agriculture.*

19552. Misbranding of butter. U. S. v. Glenville Creamery Association. Plea of guilty. Fine, \$40. (F. & D. No. 26679. I. S. Nos. 29345, 30084.)

This action was based on the interstate shipments of two lots of butter, samples of which were found to contain less than 80 per cent by weight of milk fat, the standard prescribed by Congress.

On January 19, 1932, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid an information against the Glenville Creamery Association, a corporation, Glenville, Minn., alleging shipment by said company in violation of the food and drugs act, on or about March 18 and March 25, 1931, from the State of Minnesota into the State of New York of quantities of butter that was misbranded. The article was labeled in part: "Pasteurized Sweet Cream Butter."

It was alleged in the information that the article was misbranded in that the statement "Butter," borne on the tubs containing the said article, was false and misleading, since the said statement represented that the article was butter, a product which should contain not less than 80 per cent by weight of milk fat as prescribed by the act of March 4, 1923, whereas it contained less than 80 per cent by weight of milk fat.

On January 19, 1932, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$40.

ARTHUR M. HYDE, *Secretary of Agriculture.*

19553. Misbranding of butter. U. S. v. Frye & Co. Plea of guilty. Fine, \$25 and costs. (F. & D. No. 27434. I. S. No. 22284.)

This action was based on the interstate shipment of a quantity of butter, sample packages of which were found to contain less than 1 pound net, the declared weight.

On January 19, 1932, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid an information against Frye & Co., a corporation, Seattle, Wash., alleging shipment by said company in violation of the food and drugs act, on or about June 5, 1931, from the State of Washington into the Territory of Alaska, of a quantity of butter that was misbranded. The article was labeled in part: (Retail package) "Wild Rose Fancy Creamery Butter. The Best One Pound Net Weight."

Misbranding of the article was alleged in the information for the reason that the statement, "One Pound Net Weight," borne on the packages, was false and misleading, and for the further reason that the article was labeled as aforesaid so as to deceive and mislead the purchaser, since the packages contained less than 1 pound net of the article.

On February 8, 1932, a plea of guilty to the information was entered on behalf of the defendant company, and the court imposed a fine of \$25 and costs.

ARTHUR M. HYDE, *Secretary of Agriculture.*

19554. Misbranding of clam nectar. U. S. v. 10 Cases of Clam Nectar. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 27717. I. S. No. 22494. S. No. 5807.)

This action was based on a shipment of canned clam nectar, in which the cans were found to contain less than the declared weight. Samples also were found to fall below the standard of fill of container promulgated by this department.

On February 5, 1932, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 10 cases of clam nectar, remaining in the original unbroken packages at San Francisco, Calif., alleging that the article

had been shipped on or about January 29, 1932, in interstate commerce by the Guilford Packing Co., from Seattle, Wash., to San Francisco, Calif., and charging misbranding in violation of the food and drugs act as amended. The article was labeled in part: (Can) "Sea Breeze Clam Nectar Packed by Guilford Packing Co., Port Townsend, Washington, Net Contents 110 Fl. Oz."

It was alleged in the libel that the article was misbranded in that the statement on the label, "Net Contents one ten (110) Fl. Oz.," was false and misleading and deceived and misled the purchaser. Misbranding was alleged for the further reason that the article was in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statement made was incorrect. Misbranding was alleged for the further reason that the article was canned food and fell below the standard of fill of container promulgated by the Secretary of Agriculture for such canned food, since the entire contents did not occupy 90 per cent of the volume of the closed container, and the label did not bear a plain and conspicuous statement prescribed by the Secretary, indicating that it fell below such standard.

On February 27, 1932, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

ARTHUR M. HYDE, *Secretary of Agriculture.*

19555. Misbranding of yams. U. S. v. 487 Small and Large Crates of Yams. Default decree of condemnation, forfeiture, and sale. (F. & D. No. 27702. I. S. No. 39398. S. No. 5787.)

This action involved the interstate shipment of a quantity of yams in crates of two different sizes, all of which were labeled as containing 50 pounds. Sample crates taken from both sizes were found to contain less than the declared weight, the smaller crates examined having shown an average shortage of over 10 pounds.

On January 30, 1932, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid a libel praying seizure and condemnation of 487 small and large crates of yams, remaining in the original unbroken packages at Buffalo, N. Y., alleging that the article had been shipped in interstate commerce by Jac. Bokenfohr, Prairieville, La., on January 16, 1932, to Buffalo, N. Y., and charging misbranding in violation of the food and drugs act as amended. The article was labeled in part: "Joe Brand * * * 50 Pounds Net."

It was alleged in the libel that the article was misbranded in that the statement appearing on both sizes of crates, "50 Pounds Net," was false and misleading and deceived and misled the purchaser, since the crates contained less than 50 pounds. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the packages, since the crates contained less than represented.

On February 6, 1932, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be sold in bulk by the United States marshal and that the containers be destroyed.

ARTHUR M. HYDE, *Secretary of Agriculture.*

19556. Adulteration and misbranding of butter. U. S. v. Joseph R. Patton and Roy C. Kaufman (Perry Creamery Co.). Plea of guilty. Fine, \$50. (F. & D. No. 27478. I. S. Nos. 24061, 27473.)

This action was based on the interstate shipment of quantities of butter, samples from which were found to contain less than 80 per cent by weight of milk fat, the standard prescribed by Congress.

On January 29, 1932, the United States attorney for the Western District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for the district aforesaid an information against Joseph R. Patton and Roy C. Kaufman, copartners, trading as Perry Creamery Co., Perry, Okla., alleging shipment by said defendants, on or about February 19, 1931 and May 6, 1931, from the State of Oklahoma into the State of Kansas, of quantities of butter that was adulterated and misbranded. The article was labeled in part: (Package) "Extra Fancy Valleybrook Creamery Butter."